

REFERENCE TITLE: renewable, high-wage industries incentives

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1403

Introduced by
Senator Leff; Representatives Mason, Reagan; Crandall, Driggs

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1511; AMENDING SECTIONS 42-2003, 42-12001 AND 42-12006, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-12057; AMENDING SECTION 42-15006, ARIZONA REVISED STATUTES; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-222; AMENDING SECTIONS 43-1074, 43-1077 AND 43-1079, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.01; AMENDING SECTION 43-1161, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164.01; AMENDING SECTIONS 43-1165 AND 43-1167, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 41-1511, 43-1083.01 AND 43-1164.01, ARIZONA REVISED STATUTES; RELATING TO RENEWABLE ENERGY TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1511, to read:

4 41-1511. Renewable energy tax incentives; qualification

5 A. TAX INCENTIVES ARE ALLOWED FOR EXPANDING OR LOCATING QUALIFIED
6 RENEWABLE ENERGY OPERATIONS IN THIS STATE, INCLUDING INCOME TAX CREDITS
7 PURSUANT TO SECTIONS 43-1083.01 AND 43-1164.01 AND PROPERTY TAX
8 CLASSIFICATION PURSUANT TO SECTION 42-12006, PARAGRAPH 9.

9 B. TO BE ELIGIBLE FOR THE TAX INCENTIVES, A RENEWABLE ENERGY BUSINESS
10 MUST APPLY TO THE DEPARTMENT OF COMMERCE, ON A FORM PRESCRIBED BY THE
11 DEPARTMENT, FOR CERTIFICATION OF THE BUSINESS AS QUALIFYING FOR THE
12 INCENTIVES. THE APPLICATION MUST INCLUDE:

13 1. THE APPLICANT'S NAME, ADDRESS, TELEPHONE NUMBER AND FEDERAL
14 TAXPAYER IDENTIFICATION NUMBER OR NUMBERS.

15 2. THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF A CONTACT
16 PERSON FOR THE APPLICANT.

17 3. THE ADDRESS OF THE SITE WHERE THE QUALIFYING FACILITY WILL BE
18 LOCATED.

19 4. A DETAILED DESCRIPTION OF THE QUALIFYING FACILITY AND FIXED CAPITAL
20 ASSETS.

21 5. AN ESTIMATE OF THE CAPITAL INVESTMENT AND NUMBER OF EMPLOYMENT
22 POSITIONS AT THE QUALIFYING FACILITY, INCLUDING:

23 (a) A SCHEDULE OF QUALIFYING INVESTMENTS.

24 (b) A LIST OF EMPLOYMENT POSITIONS, THE ESTIMATED NUMBER OF EMPLOYEES
25 TO BE HIRED FOR THE POSITIONS EACH YEAR DURING THE FIRST FIVE YEARS OF
26 OPERATION AND THE ANNUAL WAGES FOR EACH POSITION, CALCULATED WITHOUT
27 EMPLOYEE-RELATED BENEFITS.

28 6. A NONREFUNDABLE PROCESSING FEE IN AN AMOUNT ESTABLISHED BY RULE.

29 7. OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT TO DETERMINE
30 ELIGIBILITY FOR THE TAX INCENTIVES, AND THE AMOUNT OF INCOME TAX CREDITS, AS
31 PRESCRIBED BY THIS SECTION.

32 8. AN AFFIRMATION, SIGNED BY AN AUTHORIZED EXECUTIVE REPRESENTING THE
33 BUSINESS, THAT THE APPLICANT:

34 (a) AGREES TO FURNISH RECORDS OF EXPENDITURES FOR QUALIFYING
35 INVESTMENTS TO THE DEPARTMENT OF COMMERCE ON REQUEST.

36 (b) WILL CONTINUE IN BUSINESS AT THE QUALIFYING FACILITY FOR TEN FULL
37 CALENDAR YEARS AFTER POSTAPPROVAL FOR A TAX INCENTIVE, OTHER THAN FOR REASONS
38 BEYOND THE CONTROL OF THE APPLICANT.

39 (c) AGREES TO FURNISH TO THE DEPARTMENT OF COMMERCE ON REQUEST
40 INFORMATION REGARDING THE AMOUNT OF TAX BENEFITS CLAIMED EACH YEAR.

41 (d) AUTHORIZES THE DEPARTMENT OF REVENUE TO PROVIDE TAX INFORMATION TO
42 THE DEPARTMENT OF COMMERCE PURSUANT TO SECTION 42-2003 FOR THE PURPOSE OF
43 DETERMINING ANY INCONSISTENCY IN INFORMATION FURNISHED BY THE APPLICANT.

1 (e) CONSENTS TO THE DISCLOSURE BY THE DEPARTMENT OF COMMERCE OF THE
2 AMOUNT OF TAX BENEFITS RECEIVED EACH YEAR IN COMPOSITE FORM, WITHOUT SPECIFIC
3 IDENTIFICATION OF ANY TAXPAYER.

4 (f) AGREES TO ALLOW SITE VISITS AND AUDITS TO VERIFY THE APPLICANT'S
5 CONTINUING QUALIFICATION AND THE ACCURACY OF INFORMATION SUBMITTED TO THE
6 DEPARTMENT OF COMMERCE.

7 (g) CONSENTS TO THE ADJUSTMENT OR RECAPTURE OF ANY AMOUNT OF INCOME
8 TAX CREDIT DUE TO NONCOMPLIANCE WITH THIS SECTION.

9 C. TO BE ELIGIBLE FOR THE TAX INCENTIVES, THE APPLICANT MUST MAKE NEW
10 CAPITAL INVESTMENT IN THIS STATE IN A MANUFACTURING FACILITY OR HEADQUARTERS
11 FACILITY OR ANY COMBINATION OF QUALIFYING FACILITIES, AS FOLLOWS:

12 1. THE APPLICANT MAY QUALIFY FOR INCOME TAX CREDITS PURSUANT TO
13 SECTION 43-1083.01 OR 43-1164.01, AS APPLICABLE, IF:

14 (a) AT LEAST FIFTY-ONE PER CENT OF THE NET NEW FULL-TIME EMPLOYMENT
15 POSITIONS AT THE FACILITY PAY A WAGE THAT EQUALS OR EXCEEDS ONE HUNDRED
16 TWENTY-FIVE PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS STATE, AS DETERMINED
17 BY THE MOST RECENT ANNUAL DEPARTMENT OF COMMERCE OCCUPATIONAL WAGE AND
18 EMPLOYMENT ESTIMATES.

19 (b) ALL NET NEW FULL-TIME EMPLOYMENT POSITIONS INCLUDE HEALTH
20 INSURANCE COVERAGE FOR THE EMPLOYEES FOR WHICH THE APPLICANT PAYS AT LEAST
21 EIGHTY PER CENT OF THE PREMIUM OR MEMBERSHIP COST, OR AN EQUIVALENT
22 PERCENTAGE OF THE COST FOR ALTERNATIVE HEALTH BENEFIT MODELS THAT OFFER
23 STANDARD COMPREHENSIVE COVERAGE.

24 2. THE FIXED CAPITAL ASSETS SHALL BE CLASSIFIED AS CLASS SIX FOR THE
25 PURPOSES OF PROPERTY TAXATION PURSUANT TO SECTION 42-12006, PARAGRAPH 9 IF
26 THE QUALIFYING INVESTMENT AMOUNTS TO AT LEAST TWENTY-FIVE MILLION DOLLARS.
27 IF AT LEAST FIFTY-ONE PER CENT OF THE NET NEW FULL-TIME EMPLOYMENT POSITIONS
28 AT THE QUALIFYING FACILITY PAY A WAGE THAT EQUALS:

29 (a) AT LEAST ONE HUNDRED TWENTY-FIVE, BUT LESS THAN TWO HUNDRED, PER
30 CENT OF THE MEDIAN ANNUAL WAGE IN THIS STATE, AS DETERMINED BY THE MOST
31 RECENT ANNUAL DEPARTMENT OF COMMERCE OCCUPATIONAL WAGE AND EMPLOYMENT
32 ESTIMATES, THE PROPERTY MAY BE CLASSIFIED AS CLASS SIX FOR TEN TAX YEARS.

33 (b) AT LEAST TWO HUNDRED PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS
34 STATE, AS DETERMINED BY THE MOST RECENT ANNUAL DEPARTMENT OF COMMERCE
35 OCCUPATIONAL WAGE AND EMPLOYMENT ESTIMATES, THE PROPERTY MAY BE CLASSIFIED AS
36 CLASS SIX FOR FIFTEEN TAX YEARS.

37 D. FINAL ELIGIBILITY FOR THE TAX INCENTIVES IS SUBJECT TO ANY
38 ADDITIONAL REQUIREMENTS PRESCRIBED BY SECTIONS 42-12006, 43-1083.01 AND
39 43-1164.01, AS APPLICABLE.

40 E. AN APPLICANT MAY SEPARATELY APPLY AND QUALIFY WITH RESPECT TO
41 INVESTMENTS FOR:

- 42 1. FACILITIES IN SEPARATE LOCATIONS.
- 43 2. SEPARATE EXPANSIONS OF A FACILITY.

1 F. TO DETERMINE THE AMOUNT OF INCOME TAX CREDIT TO BE PREAPPROVED TO A
2 QUALIFYING APPLICANT, THE DEPARTMENT SHALL USE ONE OF THE FOLLOWING
3 COMPUTATIONS:

4 1. TEN PER CENT OF THE AMOUNT THE APPLICANT HAS PROJECTED IN TOTAL
5 QUALIFYING INVESTMENT IN FACILITIES MEETING THE FOLLOWING MINIMUM EMPLOYMENT
6 REQUIREMENTS:

7 (a) FOR RENEWABLE ENERGY MANUFACTURING OPERATIONS, AT LEAST ONE AND
8 ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS PROJECTED BY THE APPLICANT FOR
9 EACH FIVE HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

10 (b) FOR RENEWABLE ENERGY BUSINESS HEADQUARTERS, AT LEAST ONE NEW
11 FULL-TIME EMPLOYMENT POSITION PROJECTED BY THE APPLICANT FOR EACH TWO HUNDRED
12 THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

13 2. FOR OTHER QUALIFYING RENEWABLE ENERGY INVESTMENT, TEN PER CENT OF
14 THE AMOUNT COMPUTED AS FOLLOWS:

15 (a) FIVE HUNDRED THOUSAND DOLLARS FOR EACH ONE AND ONE-HALF NEW
16 FULL-TIME EMPLOYMENT POSITIONS PROJECTED BY THE APPLICANT IN NEW RENEWABLE
17 ENERGY MANUFACTURING OPERATIONS.

18 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT
19 POSITION PROJECTED BY THE APPLICANT AT A NEW RENEWABLE ENERGY BUSINESS
20 HEADQUARTERS.

21 G. BEGINNING WITH INCOME TAX CREDITS ALLOCATED FOR 2010, AN APPROVED
22 INCOME TAX CREDIT:

23 1. OFFSETS INCOME TAX LIABILITY FOR ANY TAXABLE YEAR WITHIN THE
24 TAXPAYER'S APPLICABLE CARRYFORWARD PERIOD PURSUANT TO SECTION 43-1083.01 OR
25 43-1164.01.

26 2. MUST BE CLAIMED ON A TIMELY FILED ORIGINAL INCOME TAX RETURN,
27 INCLUDING EXTENSIONS.

28 3. MUST BE CLAIMED IN FIVE EQUAL INSTALLMENTS AS PROVIDED IN SECTION
29 43-1083.01 OR 43-1164.01.

30 H. THE DEPARTMENT SHALL ESTABLISH A PROCESS FOR QUALIFYING AND
31 PREAPPROVING APPLICANTS FOR THE TAX INCENTIVES. THE DEPARTMENT SHALL NOT
32 PREAPPROVE AN APPLICANT AS QUALIFYING FOR TAX INCENTIVES UNDER THIS SECTION
33 AFTER DECEMBER 31, 2014. PREAPPROVAL IS BASED ON:

34 1. PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE APPLICANT FILES
35 ITS INITIAL APPLICATION WITH THE DEPARTMENT.

36 2. THE AVAILABILITY OF INCOME TAX CREDIT CAPACITY UNDER THE DOLLAR
37 LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION.

38 I. WITHIN THIRTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT
39 APPLICATION, THE DEPARTMENT SHALL REVIEW THE APPLICATION TO DETERMINE WHETHER
40 THE APPLICANT SATISFIES ALL OF THE CRITERIA PRESCRIBED BY THIS SECTION AND
41 EITHER PREAPPROVE THE PROJECT AS QUALIFYING FOR THE PURPOSES OF THE TAX
42 INCENTIVES OR PROVIDE REASONS FOR ITS DENIAL. THE DEPARTMENT OF COMMERCE
43 SHALL SEND COPIES OF THE PREAPPROVAL TO THE DEPARTMENT OF REVENUE AND THE
44 APPLICABLE COUNTY ASSESSOR. WITHIN THIRTY DAYS AFTER RECEIVING THE
45 PREAPPROVAL, THE DEPARTMENT OF REVENUE AND COUNTY ASSESSOR SHALL REVIEW THE

1 CERTIFICATION TO DETERMINE THAT THE APPLICANT IS NOT CURRENTLY DELINQUENT IN
2 THE PAYMENT OF ANY TAX.

3 J. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS EXCEEDING
4 SEVENTY MILLION DOLLARS IN ANY CALENDAR YEAR, EXCEPT AS PROVIDED BY THIS
5 SUBSECTION AND SUBSECTION K OF THIS SECTION. A PREAPPROVED AMOUNT APPLIES
6 AGAINST THE DOLLAR LIMIT FOR THE YEAR IN WHICH THE APPLICATION WAS SUBMITTED
7 REGARDLESS OF WHETHER THE INITIAL PREAPPROVAL PERIOD EXTENDS INTO THE
8 FOLLOWING YEAR OR YEARS. IF, AT THE END OF ANY YEAR, AN UNUSED BALANCE
9 OCCURS UNDER THE DOLLAR LIMIT PRESCRIBED BY THIS SUBSECTION:

10 1. THE BALANCE SHALL BE ALLOCATED TO RENEWABLE ENERGY BUSINESSES THAT
11 SUCCESSFULLY APPEAL THE DENIAL OF APPROVAL UNDER THIS SECTION. ANY AMOUNT OF
12 INCOME TAX CREDITS DUE TO SUCCESSFUL APPEALS THAT ARE NOT PAID FROM AN UNUSED
13 BALANCE AT THE END OF ANY YEAR SHALL BE PAID AGAINST THE DOLLAR LIMIT IN THE
14 FOLLOWING YEAR.

15 2. ANY REMAINING UNUSED BALANCE SHALL BE REALLOCATED FOR THE PURPOSES
16 OF THIS SECTION IN THE FOLLOWING YEAR.

17 K. THE DEPARTMENT SHALL REALLOCATE THE AMOUNT OF INCOME TAX CREDITS
18 THAT ARE VOLUNTARILY RELINQUISHED UNDER SUBSECTION L OF THIS SECTION, THAT
19 LAPSE UNDER SUBSECTION M OF THIS SECTION OR THAT LAPSE UNDER SUBSECTION O OF
20 THIS SECTION. THE REALLOCATION SHALL BE TO OTHER RENEWABLE ENERGY BUSINESSES
21 THAT APPLIED IN THE ORIGINAL CREDIT YEAR BASED ON PRIORITY PLACEMENT. ONCE
22 REALLOCATED, THE AMOUNT OF THE CREDIT APPLIES AGAINST THE DOLLAR LIMIT OF THE
23 ORIGINAL CREDIT YEAR REGARDLESS OF THE YEAR IN WHICH THE REALLOCATION OCCURS.

24 L. A TAXPAYER MAY VOLUNTARILY RELINQUISH UNUSED CREDIT AMOUNTS.

25 M. PREAPPROVAL UNDER THIS SECTION LAPSES, THE APPLICATION IS VOID AND
26 THE AMOUNT OF THE PREAPPROVED INCOME TAX CREDITS DO NOT APPLY AGAINST THE
27 DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION IF, WITHIN TWELVE
28 MONTHS AFTER PREAPPROVAL, THE RENEWABLE ENERGY BUSINESS FAILS TO PROVIDE TO
29 THE DEPARTMENT DOCUMENTATION OF ITS EXPENDITURE OF TWO HUNDRED FIFTY THOUSAND
30 DOLLARS IN QUALIFYING INVESTMENT OR, IF THE PERIOD OVER WHICH THE QUALIFYING
31 INVESTMENT WILL BE MADE EXCEEDS TWELVE MONTHS, DOCUMENTATION OF ADDITIONAL
32 EXPENDITURES AS REQUIRED IN THIS SUBSECTION FOR EACH TWELVE MONTH PERIOD.

33 N. BEGINNING IN 2010, AFTER OCTOBER 31 OF EACH YEAR, IF THE DEPARTMENT
34 HAS PREAPPROVED THE MAXIMUM CALENDAR YEAR INCOME TAX CREDIT AMOUNT PURSUANT
35 TO SUBSECTION J OF THIS SECTION, THE DEPARTMENT MAY ACCEPT INITIAL
36 APPLICATIONS FOR THE NEXT CALENDAR YEAR, BUT THE PREAPPROVAL OF ANY
37 APPLICATION PURSUANT TO THIS SUBSECTION SHALL NOT BE EFFECTIVE BEFORE THE
38 FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR YEAR.

39 O. WHEN THE FACILITY BEGINS OPERATIONS, A RENEWABLE ENERGY BUSINESS
40 THAT WAS PREAPPROVED FOR INCOME TAX CREDITS UNDER THIS SECTION SHALL APPLY TO
41 THE DEPARTMENT IN WRITING FOR POSTAPPROVAL OF THE CREDITS, SUBMIT
42 DOCUMENTATION CERTIFYING THE TOTAL AMOUNT AND DATES OF THE QUALIFYING
43 INVESTMENTS AND IDENTIFYING THE FIXED CAPITAL ASSETS ASSOCIATED WITH THE
44 FACILITY INCURRED FROM THE DATE OF PREAPPROVAL. FROM AND AFTER DECEMBER 31,
45 2009, THE DEPARTMENT SHALL PROVIDE POSTAPPROVAL TO A RENEWABLE ENERGY

1 BUSINESS THAT IT HAS MET THE ELIGIBILITY REQUIREMENTS OF THIS SECTION AND
2 SHALL NOTIFY THE DEPARTMENT OF REVENUE THAT THE RENEWABLE ENERGY BUSINESS MAY
3 CLAIM THE TAX CREDITS PURSUANT TO SECTIONS 43-1083.01 AND 43-1164.01. IF THE
4 AMOUNT OF QUALIFYING INVESTMENT ACTUALLY SPENT IS LESS THAN THE AMOUNT
5 PREAPPROVED FOR INCOME TAX CREDITS, THE PREAPPROVED AMOUNT NOT INCURRED
6 LAPSES AND DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J
7 OF THIS SECTION FOR THAT YEAR.

8 P. THE DEPARTMENT OF COMMERCE MAY RESCIND THE BUSINESS' CERTIFICATION
9 IF THE BUSINESS NO LONGER MEETS THE TERMS AND CONDITIONS REQUIRED FOR
10 QUALIFYING FOR THE TAX INCENTIVES. THE DEPARTMENT MAY GIVE SPECIAL
11 CONSIDERATION, OR ALLOW TEMPORARY EXEMPTION FROM RECAPTURE OF TAX BENEFITS,
12 IN THE CASE OF EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE CONTROL OF
13 THE QUALIFYING BUSINESS.

14 Q. IF THE DEPARTMENT OF COMMERCE RESCINDS AN APPLICANT'S PREAPPROVAL
15 UNDER SUBSECTION P OF THIS SECTION, IT SHALL NOTIFY THE DEPARTMENT OF REVENUE
16 AND THE COUNTY ASSESSOR OF THE ACTION AND THE CONDITIONS OF NONCOMPLIANCE.
17 THE DEPARTMENT OF REVENUE MAY ALSO TERMINATE THE CERTIFICATION IF IT OBTAINS
18 INFORMATION INDICATING A FAILURE TO QUALIFY AND COMPLY. THE DEPARTMENT OF
19 REVENUE MAY REQUIRE THE BUSINESS TO FILE APPROPRIATE AMENDED TAX RETURNS
20 REFLECTING ANY RECAPTURE OF INCOME TAX CREDITS UNDER SECTION 43-1083.01 OR
21 43-1164.01.

22 R. PREAPPROVAL AND POSTAPPROVAL OF A BUSINESS FOR THE PURPOSES OF TAX
23 INCENTIVES UNDER THIS SECTION DO NOT CONSTITUTE OR IMPLY COMPLIANCE WITH ANY
24 OTHER PROVISION OF LAW OR ANY REGULATORY RULE, ORDER, PROCEDURE, PERMIT OR
25 OTHER MEASURE REQUIRED BY LAW. TO MAINTAIN QUALIFICATION FOR TAX INCENTIVES
26 UNDER THIS SECTION, A BUSINESS MUST SEPARATELY COMPLY WITH ALL ENVIRONMENTAL,
27 EMPLOYMENT AND OTHER REGULATORY MEASURES.

28 S. FOR TEN YEARS AFTER POSTAPPROVAL FOR TAX INCENTIVES UNDER THIS
29 SECTION, IN ANY ACTION INVOLVING THE LIQUIDATION OF THE BUSINESS ASSETS DUE
30 TO FRAUD OR RELOCATION OUT OF STATE THIS STATE CLAIMS THE POSITION OF A
31 SECURED CREDITOR OF THE BUSINESS IN THE AMOUNT OF INCOME TAX CREDITS THE
32 BUSINESS RECEIVED PURSUANT TO SECTION 43-1083.01 OR 43-1164.01.

33 T. ANY INFORMATION GATHERED FROM RENEWABLE ENERGY BUSINESS FOR THE
34 PURPOSES OF THIS SECTION IS CONSIDERED TO BE CONFIDENTIAL TAXPAYER
35 INFORMATION AND SHALL BE DISCLOSED ONLY AS PROVIDED IN SECTION 42-2003,
36 SUBSECTION B, PARAGRAPH 12, EXCEPT THAT THE DEPARTMENT SHALL PUBLISH THE
37 FOLLOWING INFORMATION IN ITS ANNUAL REPORT:

38 1. THE NAME OF EACH RENEWABLE ENERGY BUSINESS AND THE AMOUNT OF INCOME
39 TAX CREDITS PREAPPROVED FOR EACH QUALIFYING INVESTMENT.

40 2. THE AMOUNT OF CREDITS THAT WERE POSTAPPROVED WITH RESPECT TO EACH
41 QUALIFYING INVESTMENT.

42 U. THE DEPARTMENT SHALL:

43 1. KEEP ANNUAL RECORDS OF THE INFORMATION PROVIDED ON APPLICATIONS FOR
44 RENEWABLE ENERGY BUSINESSES. THESE RECORDS SHALL REFLECT A PERCENTAGE
45 COMPARISON OF THE ANNUAL AMOUNT OF MONIES EXEMPTED OR CREDITED TO QUALIFYING

1 RENEWABLE ENERGY BUSINESSES TO THE ESTIMATED AMOUNT OF MONIES SPENT IN THIS
2 STATE IN THE FORM OF QUALIFYING INVESTMENTS.

3 2. MAINTAIN ANNUAL DATA ON GROWTH IN THIS STATE OF RENEWABLE ENERGY
4 BUSINESSES AND INDUSTRY EMPLOYMENT AND WAGES.

5 3. NOT LATER THAN APRIL 30 OF EACH YEAR, PREPARE AND PUBLISH A REPORT
6 SUMMARIZING THE INFORMATION COLLECTED PURSUANT TO THIS SUBSECTION. THE
7 DEPARTMENT SHALL MAKE COPIES OF THE ANNUAL REPORT AVAILABLE TO THE PUBLIC ON
8 REQUEST.

9 V. THE DEPARTMENT OF COMMERCE SHALL ADOPT RULES AND PRESCRIBE FORMS
10 AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT
11 OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL COLLABORATE IN ADOPTING RULES
12 AS NECESSARY TO AVOID DUPLICATION AND INCONSISTENCIES WHILE ACCOMPLISHING THE
13 INTENT AND PURPOSES OF THIS SECTION.

14 W. FOR THE PURPOSES OF THIS SECTION:

15 1. "CAPITAL INVESTMENT" MEANS AN EXPENDITURE TO ACQUIRE OR IMPROVE
16 PROPERTY THAT IS USED IN OPERATING A BUSINESS, INCLUDING LAND, BUILDINGS,
17 MACHINERY AND FIXTURES.

18 2. "HEADQUARTERS" MEANS A PRINCIPAL CENTRAL ADMINISTRATIVE OFFICE
19 WHERE PRIMARY HEADQUARTERS RELATED FUNCTIONS AND SERVICES ARE PERFORMED,
20 INCLUDING FINANCIAL, PERSONNEL, ADMINISTRATIVE, LEGAL, PLANNING AND SIMILAR
21 BUSINESS FUNCTIONS ARE PERFORMED.

22 3. "MANUFACTURING" MEANS FABRICATING, PRODUCING OR MANUFACTURING RAW
23 OR PREPARED MATERIALS INTO USABLE PRODUCTS, IMPARTING NEW FORMS, QUALITIES,
24 PROPERTIES AND COMBINATIONS. MANUFACTURING DOES NOT INCLUDE GENERATING
25 ELECTRICITY FOR OFF-SITE CONSUMPTION.

26 4. "QUALIFYING INVESTMENT" MEANS INVESTMENT IN LAND, BUILDINGS,
27 MACHINERY AND FIXTURES FOR EXPANSION OF AN EXISTING FACILITY OR ESTABLISHMENT
28 OF A NEW FACILITY IN THIS STATE. QUALIFYING INVESTMENT DOES NOT INCLUDE
29 RELOCATING AN EXISTING FACILITY IN THIS STATE TO ANOTHER LOCATION IN THIS
30 STATE WITHOUT ADDITIONAL CAPITAL INVESTMENT.

31 5. "RENEWABLE ENERGY OPERATIONS" ARE LIMITED TO MANUFACTURERS OF, AND
32 HEADQUARTERS FOR, SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL IN
33 MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE GENERATION, STORAGE, TESTING
34 AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY
35 FROM RENEWABLE RESOURCES.

36 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
37 42-2003. Authorized disclosure of confidential information

38 A. Confidential information relating to:

39 1. A taxpayer may be disclosed to the taxpayer, its successor in
40 interest or a designee of the taxpayer who is authorized in writing by the
41 taxpayer. A principal corporate officer of a parent corporation may execute
42 a written authorization for a controlled subsidiary.

43 2. A corporate taxpayer may be disclosed to any principal officer, any
44 person designated by a principal officer or any person designated in a

1 resolution by the corporate board of directors or other similar governing
2 body.

3 3. A partnership may be disclosed to any partner of the
4 partnership. This exception does not include disclosure of confidential
5 information of a particular partner unless otherwise authorized.

6 4. An estate may be disclosed to the personal representative of the
7 estate and to any heir, next of kin or beneficiary under the will of the
8 decedent if the department finds that the heir, next of kin or beneficiary
9 has a material interest which will be affected by the confidential
10 information.

11 5. A trust may be disclosed to the trustee or trustees, jointly or
12 separately, and to the grantor or any beneficiary of the trust if the
13 department finds that the grantor or beneficiary has a material interest
14 which will be affected by the confidential information.

15 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
16 to confidentiality either in writing or on the record in any administrative
17 or judicial proceeding.

18 7. The name and taxpayer identification numbers of persons issued
19 direct payment permits may be publicly disclosed.

20 B. Confidential information may be disclosed to:

21 1. Any employee of the department whose official duties involve tax
22 administration.

23 2. The office of the attorney general solely for its use in
24 preparation for, or in an investigation which may result in, any proceeding
25 involving tax administration before the department or any other agency or
26 board of this state, or before any grand jury or any state or federal court.

27 3. The department of liquor licenses and control for its use in
28 determining whether a spirituous liquor licensee has paid all transaction
29 privilege taxes and affiliated excise taxes incurred as a result of the sale
30 of spirituous liquor, as defined in section 4-101, at the licensed
31 establishment and imposed on the licensed establishments by this state and
32 its political subdivisions.

33 4. Other state tax officials whose official duties require the
34 disclosure for proper tax administration purposes if the information is
35 sought in connection with an investigation or any other proceeding conducted
36 by the official. Any disclosure is limited to information of a taxpayer who
37 is being investigated or who is a party to a proceeding conducted by the
38 official.

39 5. The following agencies, officials and organizations, if they grant
40 substantially similar privileges to the department for the type of
41 information being sought, pursuant to statute and a written agreement between
42 the department and the foreign country, agency, state, Indian tribe or
43 organization:

44 (a) The United States internal revenue service, alcohol and tobacco
45 tax and trade bureau of the United States treasury, United States bureau of

1 alcohol, tobacco, firearms and explosives of the United States department of
2 justice, United States drug enforcement agency and federal bureau of
3 investigation.

4 (b) A state tax official of another state.

5 (c) An organization of states, federation of tax administrators or
6 multistate tax commission that operates an information exchange for tax
7 administration purposes.

8 (d) An agency, official or organization of a foreign country with
9 responsibilities that are comparable to those listed in subdivision (a), (b)
10 or (c) of this paragraph.

11 (e) An agency, official or organization of an Indian tribal government
12 with responsibilities comparable to the responsibilities of the agencies,
13 officials or organizations identified in subdivision (a), (b) or (c) of this
14 paragraph.

15 6. The auditor general, in connection with any audit of the department
16 subject to the restrictions in section 42-2002, subsection D.

17 7. Any person to the extent necessary for effective tax administration
18 in connection with:

19 (a) The processing, storage, transmission, destruction and
20 reproduction of the information.

21 (b) The programming, maintenance, repair, testing and procurement of
22 equipment for purposes of tax administration.

23 8. The office of administrative hearings relating to taxes
24 administered by the department pursuant to section 42-1101, but the
25 department shall not disclose any confidential information:

26 (a) Regarding income tax, withholding tax or estate tax.

27 (b) On any tax issue relating to information associated with the
28 reporting of income tax, withholding tax or estate tax.

29 9. The United States treasury inspector general for tax administration
30 for the purpose of reporting a violation of internal revenue code section
31 7213A (26 United States Code section 7213A), unauthorized inspection of
32 returns or return information.

33 10. The financial management service of the United States treasury
34 department for use in the treasury offset program.

35 11. The United States treasury department or its authorized agent for
36 use in the state income tax levy program and in the electronic federal tax
37 payment system.

38 12. The department of commerce for its use in:

39 (a) Qualifying motion picture production companies for the tax
40 incentives provided for motion picture production under chapter 5 of this
41 title and sections 43-1075 and 43-1163.

42 ~~(b) Fulfilling its annual reporting responsibility pursuant to section~~
43 ~~41-1517, subsections S and T.~~

44 ~~(c)~~ (b) Qualifying applicants for the motion picture infrastructure
45 project tax credits under sections 43-1075.01 and 43-1163.01.

1 (c) QUALIFYING RENEWABLE ENERGY OPERATIONS FOR THE TAX INCENTIVES
2 UNDER SECTIONS 42-12006, 43-1083.01 AND 43-1164.01.

3 (d) FULFILLING ITS ANNUAL REPORTING RESPONSIBILITY PURSUANT TO SECTION
4 41-1511, SUBSECTIONS T AND U AND SECTION 41-1517, SUBSECTIONS S AND T.

5 13. A prosecutor for purposes of section 32-1164, subsection C.

6 14. The state fire marshal for use in determining compliance with and
7 enforcing title 41, chapter 16, article 3.1.

8 C. Confidential information may be disclosed in any state or federal
9 judicial or administrative proceeding pertaining to tax administration
10 pursuant to the following conditions:

11 1. One or more of the following circumstances must apply:

12 (a) The taxpayer is a party to the proceeding.

13 (b) The proceeding arose out of, or in connection with, determining
14 the taxpayer's civil or criminal liability, or the collection of the
15 taxpayer's civil liability, with respect to any tax imposed under this title
16 or title 43.

17 (c) The treatment of an item reflected on the taxpayer's return is
18 directly related to the resolution of an issue in the proceeding.

19 (d) Return information directly relates to a transactional
20 relationship between a person who is a party to the proceeding and the
21 taxpayer and directly affects the resolution of an issue in the proceeding.

22 2. Confidential information may not be disclosed under this subsection
23 if the disclosure is prohibited by section 42-2002, subsection C or D.

24 D. Identity information may be disclosed for purposes of notifying
25 persons entitled to tax refunds if the department is unable to locate the
26 persons after reasonable effort.

27 E. The department, upon the request of any person, shall provide the
28 names and addresses of bingo licensees as defined in section 5-401, verify
29 whether or not a person has a privilege license and number, a distributor's
30 license and number or a withholding license and number or disclose the
31 information to be posted on the department's web site or otherwise publicly
32 accessible pursuant to section 42-1124, subsection F and section 42-3201,
33 subsection A.

34 F. A department employee, in connection with the official duties
35 relating to any audit, collection activity or civil or criminal
36 investigation, may disclose return information to the extent that disclosure
37 is necessary to obtain information which is not otherwise reasonably
38 available. These official duties include the correct determination of and
39 liability for tax, the amount to be collected or the enforcement of other
40 state tax revenue laws.

41 G. If an organization is exempt from this state's income tax as
42 provided in section 43-1201 for any taxable year, the name and address of the
43 organization and the application filed by the organization upon which the
44 department made its determination for exemption together with any papers

1 submitted in support of the application and any letter or document issued by
2 the department concerning the application are open to public inspection.

3 H. Confidential information relating to transaction privilege tax, use
4 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
5 be disclosed to any county, city or town tax official if the information
6 relates to a taxpayer who is or may be taxable by the county, city or town.
7 Any taxpayer information released by the department to the county, city or
8 town:

9 1. May only be used for internal purposes.

10 2. May not be disclosed to the public in any manner that does not
11 comply with confidentiality standards established by the department. The
12 county, city or town shall agree in writing with the department that any
13 release of confidential information that violates the confidentiality
14 standards adopted by the department will result in the immediate suspension
15 of any rights of the county, city or town to receive taxpayer information
16 under this subsection.

17 I. The department may disclose statistical information gathered from
18 confidential information if it does not disclose confidential information
19 attributable to any one taxpayer. In order to comply with the requirements
20 of section 42-5029, subsection A, paragraph 3, the department may disclose to
21 the state treasurer statistical information gathered from confidential
22 information, even if it discloses confidential information attributable to a
23 taxpayer.

24 J. The department may disclose the aggregate amounts of any tax
25 credit, tax deduction or tax exemption enacted after January 1, 1994.
26 Information subject to disclosure under this subsection shall not be
27 disclosed if a taxpayer demonstrates to the department that such information
28 would give an unfair advantage to competitors.

29 K. Except as provided in section 42-2002, subsection C, confidential
30 information, described in section 42-2001, paragraph 2, subdivision (a), item
31 (iii), may be disclosed to law enforcement agencies for law enforcement
32 purposes.

33 L. The department may provide transaction privilege tax license
34 information to property tax officials in a county for the purpose of
35 identification and verification of the tax status of commercial property.

36 M. The department may provide transaction privilege tax, luxury tax,
37 use tax, property tax and severance tax information to the ombudsman-citizens
38 aide pursuant to title 41, chapter 8, article 5.

39 N. Except as provided in section 42-2002, subsection D, a court may
40 order the department to disclose confidential information pertaining to a
41 party to an action. An order shall be made only upon a showing of good cause
42 and that the party seeking the information has made demand upon the taxpayer
43 for the information.

44 O. This section does not prohibit the disclosure by the department of
45 any information or documents submitted to the department by a bingo licensee.

1 Before disclosing the information the department shall obtain the name and
2 address of the person requesting the information.

3 P. If the department is required or permitted to disclose confidential
4 information, it may charge the person or agency requesting the information
5 for the reasonable cost of its services.

6 Q. Except as provided in section 42-2002, subsection D, the department
7 of revenue shall release confidential information as requested by the
8 department of economic security pursuant to section 42-1122 or 46-291.
9 Information disclosed under this subsection is limited to the same type of
10 information that the United States internal revenue service is authorized to
11 disclose under section 6103(1)(6) of the internal revenue code.

12 R. Except as provided in section 42-2002, subsection D, the department
13 of revenue shall release confidential information as requested by the courts
14 and clerks of the court pursuant to section 42-1122.

15 S. To comply with the requirements of section 42-5031, the department
16 may disclose to the state treasurer, to the county stadium district board of
17 directors and to any city or town tax official that is part of the county
18 stadium district confidential information attributable to a taxpayer's
19 business activity conducted in the county stadium district.

20 T. The department shall release confidential information as requested
21 by the attorney general for purposes of determining compliance with and
22 enforcing section 44-7101, the master settlement agreement referred to
23 therein and subsequent agreements to which the state is a party that amend or
24 implement the master settlement agreement. Information disclosed under this
25 subsection is limited to luxury tax information relating to tobacco
26 manufacturers, distributors, wholesalers and retailers and information
27 collected by the department pursuant to section 44-7101(2)(j).

28 U. For proceedings before the department, the office of administrative
29 hearings, the board of tax appeals or any state or federal court involving
30 penalties that were assessed against a return preparer or electronic return
31 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
32 information may be disclosed only before the judge or administrative law
33 judge adjudicating the proceeding, the parties to the proceeding and the
34 parties' representatives in the proceeding prior to its introduction into
35 evidence in the proceeding. The confidential information may be introduced
36 as evidence in the proceeding only if the taxpayer's name, the names of any
37 dependents listed on the return, all social security numbers, the taxpayer's
38 address, the taxpayer's signature and any attachments containing any of the
39 foregoing information are redacted and if either:

40 1. The treatment of an item reflected on such return is or may be
41 related to the resolution of an issue in the proceeding.

42 2. Such return or return information relates or may relate to a
43 transactional relationship between a person who is a party to the proceeding
44 and the taxpayer which directly affects the resolution of an issue in the
45 proceeding.

1 V. The department may disclose to the attorney general confidential
2 information received under section 44-7111 and requested by the attorney
3 general for purposes of determining compliance with and enforcing section
4 44-7111. The department and attorney general shall share with each other the
5 information received under section 44-7111, and may share the information
6 with other federal, state or local agencies only for the purposes of
7 enforcement of section 44-7101, section 44-7111 or corresponding laws of
8 other states.

9 Sec. 3. Section 42-12001, Arizona Revised Statutes, is amended to
10 read:

11 42-12001. Class one property

12 For purposes of taxation, class one is established consisting of the
13 following subclasses:

14 1. Producing mines and mining claims, personal property used on mines
15 and mining claims, improvements to mines and mining claims and mills and
16 smelters operated in conjunction with mines and mining claims that are valued
17 at full cash value pursuant to section 42-14053.

18 2. Standing timber that is valued at full cash value.

19 3. Real and personal property of gas distribution companies, electric
20 transmission companies, electric distribution companies, combination gas and
21 electric transmission and distribution companies, companies engaged in the
22 generation of electricity and electric cooperatives that are valued at full
23 cash value pursuant to section 42-14151.

24 4. Real and personal property of airport fuel delivery companies that
25 are valued pursuant to section 42-14503.

26 5. Real and personal property that is used by producing oil, gas and
27 geothermal resource interests that are valued at full cash value pursuant to
28 section 42-14102.

29 6. Real and personal property of water, sewer and wastewater utility
30 companies that are valued at full cash value pursuant to section 42-14151.

31 7. Real and personal property of pipeline companies that are valued at
32 full cash value pursuant to section 42-14201.

33 8. Real and personal property of shopping centers that are valued at
34 full cash value or pursuant to chapter 13, article 5 of this title, as
35 applicable.

36 9. Real and personal property of golf courses that are valued at full
37 cash value or pursuant to chapter 13, article 4 of this title.

38 10. All property, both real and personal, of manufacturers, assemblers
39 or fabricators, **OTHER THAN PROPERTY THAT IS SPECIFICALLY INCLUDED IN ANOTHER**
40 **CLASS DESCRIBED IN THIS ARTICLE, THAT ARE** valued under ~~the provisions of~~ this
41 title.

42 11. Real and personal property that is used in communications
43 transmission facilities and that provides public telephone or
44 telecommunications exchange or interexchange access for compensation to
45 effect two-way communication to, from, through or within this state.

1 12. Real property and improvements that are devoted to any other
2 commercial or industrial use, other than property that is specifically
3 included in another class described in this article, and that are valued at
4 full cash value.

5 13. Personal property that is devoted to any other commercial or
6 industrial use, other than property that is specifically included in another
7 class described in this article, and that is valued at full cash value.

8 Sec. 4. Section 42-12006, Arizona Revised Statutes, is amended to
9 read:

10 42-12006. Class six property

11 For purposes of taxation, class six is established consisting of:

12 1. Noncommercial historic property as defined in section 42-12101 and
13 valued at full cash value.

14 2. Real and personal property that is located within the area of a
15 foreign trade zone or subzone established under 19 United States Code section
16 81 and title 44, chapter 18, that is activated for foreign trade zone use by
17 the district director of the United States customs service pursuant to
18 19 Code of Federal Regulations section 146.6 and that is valued at full cash
19 value. Property that is classified under this paragraph shall not thereafter
20 be classified under paragraph 7 of this section.

21 3. Real and personal property and improvements that are located in a
22 military reuse zone that is established under title 41, chapter 10, article 3
23 and that is devoted to providing aviation or aerospace services or to
24 manufacturing, assembling or fabricating aviation or aerospace products,
25 valued at full cash value and subject to the following terms and conditions:

26 (a) Property may not be classified under this paragraph for more than
27 five tax years.

28 (b) Any new addition or improvement to property already classified
29 under this paragraph qualifies separately for classification under this
30 paragraph for not more than five tax years.

31 (c) If a military reuse zone is terminated, the property in that zone
32 that was previously classified under this paragraph shall be reclassified as
33 prescribed by this article.

34 (d) Property that is classified under this paragraph shall not
35 thereafter be classified under paragraph 4 or 7 of this section.

36 4. Real and personal property and improvements that are located in an
37 enterprise zone, that are owned or used by a small manufacturing or small
38 commercial ~~printer~~ PRINTING business that is certified by the department of
39 commerce pursuant to section 41-1525.01 and that are valued at full cash
40 value, subject to the following terms and conditions:

41 (a) Property may not be classified under this paragraph for more than
42 five tax years.

43 (b) Property that is classified under this paragraph shall not
44 thereafter be classified under paragraph 3 or 7 of this section.

1 5. Real and personal property and improvements or a portion of such
2 property comprising a qualified environmental technology manufacturing,
3 producing or processing facility as described in section 41-1514.02, valued
4 at full cash value and subject to the following terms and conditions:

5 (a) Property shall be classified under this paragraph for twenty tax
6 years from the date placed in service.

7 (b) Any addition or improvement to property already classified under
8 this paragraph qualifies separately for classification under this subdivision
9 for an additional twenty tax years from the date placed in service.

10 (c) After revocation of certification under section 41-1514.02,
11 property that was previously classified under this paragraph shall be
12 reclassified as prescribed by this article.

13 (d) Property that is classified under this paragraph shall not
14 thereafter be classified under paragraph 7 of this section.

15 6. That portion of real and personal property that is used on or after
16 January 1, 1999 specifically and solely for remediation of the environment by
17 an action that has been determined to be reasonable and necessary to respond
18 to the release or threatened release of a hazardous substance by the
19 department of environmental quality pursuant to section 49-282.06 or pursuant
20 to its corrective action authority under rules adopted pursuant to section
21 49-922, subsection B, paragraph 4 or by the United States environmental
22 protection agency pursuant to the national contingency plan (40 Code of
23 Federal Regulations part 300) and that is valued at full cash value. Property
24 that is not being used specifically and solely for the remediation objectives
25 described in this paragraph shall not be classified under this paragraph.
26 For the purposes of this paragraph, "remediation of the environment" means
27 one or more of the following actions:

28 (a) Monitoring, assessing or evaluating the release or threatened
29 release.

30 (b) Excavating, removing, transporting, treating and disposing of
31 contaminated soil.

32 (c) Pumping and treating contaminated water.

33 (d) Treatment, containment or removal of contaminants in groundwater
34 or soil.

35 7. Real and personal property and improvements constructed or
36 installed from and after December 31, 2004 through December 31, 2010 and
37 owned by a qualified business under section 41-1516 and used solely for the
38 purpose of harvesting, transporting or the initial processing of qualifying
39 forest products removed from qualifying projects as defined in section
40 41-1516. The classification under this paragraph is subject to the following
41 terms and conditions:

42 (a) Property may be initially classified under this paragraph only in
43 valuation years 2005 through 2010.

44 (b) Property may not be classified under this paragraph for more than
45 five years.

1 (c) Any new addition or improvement, constructed or installed from and
2 after December 31, 2004 through December 31, 2010, to property already
3 classified under this paragraph qualifies separately for classification and
4 assessment under this paragraph for not more than five years.

5 (d) Property that is classified under this paragraph shall not
6 thereafter be classified under paragraph 2, 3, 4 or 5 of this section.

7 8. Real and personal property and improvements to the property that
8 are used specifically and solely to manufacture from and after December 31,
9 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent
10 biodiesel and its by-products and that are valued at full cash value. This
11 paragraph applies only to the portion of property that is used specifically
12 for manufacturing and processing one hundred per cent biodiesel fuel, or its
13 related by-products, from raw feedstock obtained from off-site sources,
14 including necessary on-site storage facilities that are intrinsically
15 associated with the manufacturing process. Any other commercial or industrial
16 use disqualifies the entire property from classification under this
17 paragraph.

18 9. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE CERTIFIED
19 PURSUANT TO SECTION 41-1511, SUBSECTION C, PARAGRAPH 2 AND THAT ARE USED
20 EXCLUSIVELY FOR RENEWABLE ENERGY MANUFACTURING OR HEADQUARTERS OPERATIONS AS
21 PROVIDED BY SECTION 42-12057. THIS PARAGRAPH APPLIES ONLY TO PROPERTY THAT
22 IS USED IN MANUFACTURING AND HEADQUARTERS OPERATIONS OF RENEWABLE ENERGY
23 COMPANIES, INCLUDING NECESSARY ON-SITE RESEARCH AND DEVELOPMENT, TESTING AND
24 STORAGE FACILITIES THAT ARE ASSOCIATED WITH THE MANUFACTURING PROCESS. ANY
25 OTHER COMMERCIAL OR INDUSTRIAL USE DISQUALIFIES THE ENTIRE PROPERTY FROM
26 CLASSIFICATION UNDER THIS PARAGRAPH. NO NEW PROPERTIES MAY BE CLASSIFIED
27 PURSUANT TO THIS PARAGRAPH FROM AND AFTER DECEMBER 31, 2014. CLASSIFICATION
28 UNDER THIS PARAGRAPH IS LIMITED TO THE TIME PERIODS DETERMINED BY THE
29 DEPARTMENT OF COMMERCE PURSUANT TO SECTION 41-1511, SUBSECTION C, PARAGRAPH
30 2, SUBDIVISION (a) OR (b). PROPERTY THAT IS CLASSIFIED UNDER THIS PARAGRAPH
31 SHALL NOT THEREAFTER BE CLASSIFIED UNDER ANY OTHER PARAGRAPH OF THIS SECTION.

32 Sec. 5. Title 42, chapter 12, article 2, Arizona Revised Statutes, is
33 amended by adding section 42-12057, to read:

34 42-12057. Criteria for renewable energy property

35 A. TO QUALIFY FOR THE CLASSIFICATION AS CLASS SIX PURSUANT TO SECTION
36 42-12006, PARAGRAPH 9, THE OWNER OF A MANUFACTURING FACILITY OR HEADQUARTERS
37 FACILITY MUST BE CERTIFIED PURSUANT TO SECTION 41-1511, SUBSECTION C,
38 PARAGRAPH 2 AND MUST PROVIDE DOCUMENTATION TO THE COUNTY ASSESSOR EACH YEAR
39 THAT THE FACILITY IS EXCLUSIVELY DEDICATED TO RENEWABLE ENERGY MANUFACTURING
40 OR REGIONAL, NATIONAL OR GLOBAL RENEWABLE ENERGY BUSINESS HEADQUARTERS
41 OPERATIONS.

42 B. FOR THE PURPOSES OF THIS SECTION, RENEWABLE ENERGY PROJECTS ARE
43 LIMITED TO MANUFACTURERS OF, AND HEADQUARTERS FOR, SYSTEMS AND COMPONENTS
44 THAT ARE USED OR USEFUL IN MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE

1 GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR
2 DISTRIBUTION OF ELECTRICITY FROM RENEWABLE RESOURCES.

3 Sec. 6. Section 42-15006, Arizona Revised Statutes, is amended to
4 read:

5 42-15006. Assessed valuation of class six property

6 The assessed valuation of class six property described in
7 section 42-12006 is based on the following percentages to the full cash value
8 or limited valuation of class six property, as applicable:

9 1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6,
10 7, ~~and~~ 8 AND 9, five per cent.

11 2. Property described in section 42-12006, paragraph 4:

12 (a) For primary property tax purposes, five per cent.

13 (b) Except as provided in subdivision (c), for secondary property tax
14 purposes:

15 (i) Twenty-five per cent through December 31, 2006.

16 (ii) Twenty-four per cent beginning from and after December 31, 2006
17 through December 31, 2007.

18 (iii) Twenty-three per cent beginning from and after December 31, 2007
19 through December 31, 2008.

20 (iv) Twenty-two per cent beginning from and after December 31, 2008
21 through December 31, 2009.

22 (v) Twenty-one per cent beginning from and after December 31, 2009
23 through December 31, 2010.

24 (vi) Twenty per cent beginning from and after December 31, 2010.

25 (c) If subdivision (b) is finally adjudicated to be invalid, for
26 secondary property tax purposes, five per cent.

27 Sec. 7. Repeal

28 Section 43-222, Arizona Revised Statutes, is repealed.

29 Sec. 8. Title 43, chapter 2, article 2, Arizona Revised Statutes, is
30 amended by adding a new section 43-222, to read:

31 43-222. Income tax credit review schedule

32 THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE SHALL REVIEW
33 THE FOLLOWING INCOME TAX CREDITS:

34 1. FOR YEARS ENDING IN 0 AND 5, SECTIONS 43-1075, 43-1075.01,
35 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
36 43-1175 AND 43-1182.

37 2. FOR YEARS ENDING IN 1 AND 6, SECTIONS 43-1074.02, 43-1083, 43-1085,
38 43-1164 AND 43-1183.

39 3. FOR YEARS ENDING IN 2 AND 7, SECTIONS 43-1073, 43-1079, 43-1080,
40 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176
41 AND 43-1181.

42 4. FOR YEARS ENDING IN 3 AND 8, SECTIONS 43-1074.01, 43-1081, 43-1168,
43 43-1170 AND 43-1178.

44 5. FOR YEARS ENDING IN 4 AND 9, SECTIONS 43-1076, 43-1081.01,
45 43-1083.01, 43-1084, 43-1162, 43-1164.01 AND 43-1170.01.

1 Sec. 9. Section 43-1074, Arizona Revised Statutes, is amended to read:
2 43-1074. Credit for increased employment in enterprise zones:
3 definitions

4 A. A credit is allowed against the taxes imposed by this title for net
5 increases in qualified employment positions of residents of this state by a
6 business located in an enterprise zone established under title 41, chapter
7 10, article 2, except employment positions at a zone location where more than
8 ten per cent of the business conducted at the location consists of retail
9 sales of tangible personal property, measured by either the number of
10 employees assigned to retail sales or the square footage of the facility used
11 for retail sales activities at the location in the zone. Retail sales and
12 retail sales activities do not include:

13 1. Food and beverage for consumption on the premises solely by
14 employees and occasional guests of employees at the location.

15 2. Promotional products not available for sale and displaying the
16 company logo or trademark.

17 3. Products sold to company employees.

18 B. Subject to subsection E of this section, the amount of the credit
19 is equal to:

20 1. One-fourth of the taxable wages paid to an employee in a qualified
21 employment position, not to exceed five hundred dollars, in the first year or
22 partial year of employment.

23 2. One-third of the taxable wages paid to an employee in a qualified
24 employment position, not to exceed one thousand dollars per qualified
25 employment position, in the second year of continuous employment.

26 3. One-half of the taxable wages paid to an employee in a qualified
27 employment position, not to exceed one thousand five hundred dollars per
28 qualified employment position, in the third year of continuous employment.

29 C. To qualify for a credit under this section:

30 1. All of the employees with respect to whom a credit is claimed must
31 reside in this state.

32 2. Thirty-five per cent of the employees with respect to whom a credit
33 is claimed for the first year of employment must reside on the date of
34 employment in an enterprise zone that is located in the same county in which
35 the business is located. If an employee for whom a credit was allowed in the
36 first year of employment leaves employment during the second or third year,
37 the taxpayer may substitute another employee who meets the requirements of
38 paragraph 3 of this subsection and who was hired during the same year as the
39 original employee. If the original employee was counted toward the residency
40 requirement under this paragraph, the substitute employee must also have
41 resided in a zone at the time the substitute was hired.

42 3. A qualified employment position must meet all of the following
43 requirements:

44 (a) The position must be a minimum of one thousand seven hundred fifty
45 hours per year of full-time and permanent employment.

1 (b) The job duties must be performed primarily at the zone locations
 2 of the business. If an eligible employee in a qualified employment position
 3 is transferred or assigned to work in the taxpayer's workplace at a different
 4 location that is also located in an enterprise zone and qualifies as a zone
 5 location, it may be considered to be continuous employment if it continues to
 6 meet all qualified employment position requirements.

7 (c) The employment must include health insurance coverage for the
 8 employee for which the employer pays at least fifty per cent of the premium
 9 or membership cost. If the taxpayer is self-insured, the taxpayer must pay
 10 at least fifty per cent of a predetermined fixed cost per employee for an
 11 insurance program that is payable whether or not the employee has filed
 12 claims.

13 (d) The employer must pay compensation at least equal to the wage
 14 offer by county as computed annually by the department of economic security
 15 research administration division.

16 (e) The employee must have been employed for at least ninety days
 17 during the first taxable year. An employee who is hired during the last
 18 ninety days of the taxable year shall be considered a new employee during the
 19 next taxable year. A qualified employment position that is filled during the
 20 last ninety days of the taxable year is considered to be a new qualified
 21 employment position for the next taxable year.

22 (f) The employee must not have been previously employed by the
 23 taxpayer within twelve months before the current date of hire.

24 D. A credit is allowed for employment in the second and third year
 25 only for qualified employment positions for which a credit was allowed and
 26 claimed by the taxpayer on the original first and second year tax returns.
 27 For the purposes of this subsection, the requirement to claim the credit on
 28 the original tax return does not apply to qualified employment positions
 29 created before January 1, 2002 and ~~were~~ certified to the department of
 30 commerce.

31 E. The net increase in the number of qualified employment positions is
 32 the lesser of the total number of filled qualified employment positions
 33 created in the zone during the tax year or the difference between the average
 34 number of full-time employees in the zone in the current tax year and the
 35 average number of full-time employees during the immediately preceding
 36 taxable year. The net increase in the number of qualified employment
 37 positions computed under this subsection shall not exceed two hundred
 38 qualified employment positions per taxpayer each year.

39 F. A taxpayer who claims a credit under section 43-1077, ~~or~~ 43-1079 OR
 40 43-1083.01 shall not claim a credit under this section with respect to the
 41 same ~~employees~~ EMPLOYMENT POSITIONS.

42 G. If the allowable tax credit exceeds the income taxes otherwise due
 43 on the claimant's income, or if there are no state income taxes due on the
 44 claimant's income, the amount of the claim not used as an offset against
 45 income taxes may be carried forward as a tax credit against subsequent

1 taxable years' income tax liability, not to exceed five taxable years,
2 provided the business remains in an enterprise zone.

3 H. Co-owners of a business, including partners in a partnership and
4 shareholders of an S corporation, as defined in section 1361 of the internal
5 revenue code, may each claim only the pro rata share of the credit allowed
6 under this section based on the ownership interest. The total of the credits
7 allowed all such owners of the business may not exceed the amount that would
8 have been allowed for a sole owner of the business.

9 I. If a person purchases a business in a zone or changes ownership
10 through reorganization, stock purchase or merger, the new taxpayer may claim
11 first year credits only for one or more qualified employment positions that
12 it created and filled with an eligible employee after the purchase or
13 reorganization was complete. If a person purchases a taxpayer that had
14 qualified for first or second year credits or changes ownership through
15 reorganization, stock purchase or merger, the new taxpayer may claim the
16 second or third year credits if it meets other eligibility requirements of
17 this section. Credits for which a taxpayer qualified before the changes
18 described in this subsection are terminated and lost at the time the changes
19 are implemented.

20 J. A failure to timely report and certify to the department of
21 commerce and the department of revenue the information prescribed by section
22 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by
23 section 41-1525, subsection C, ~~disqualifies~~ the taxpayer from the credit
24 under this section. The department of revenue shall require written evidence
25 of the timely report to the department of commerce.

26 K. The termination of an enterprise zone does not affect the credit
27 under this section with respect to:

28 1. Taxpayers who have employees in the second and third years of
29 employment in qualified employment positions under subsections A, B and C of
30 this section if the business remains in the location that was in the
31 enterprise zone.

32 2. Amounts carried forward into subsequent taxable years under
33 subsection G of this section.

34 L. The department may adopt rules necessary for the administration of
35 this section.

36 M. For the purposes of this section:

37 1. "Assigned to retail" means working more than twenty-five per cent
38 of an employee's time in one or more retail sales activities.

39 2. "Retail sales" means the sale of tangible personal property to an
40 ultimate consumer.

41 3. "Retail sales activities" means all activities persons operating a
42 retail business normally engage in, including taking orders, filling orders,
43 billing orders, receiving and processing payment and shipping, stocking and
44 delivering tangible personal property to the ultimate consumer, except drop

1 shipments by a company acting on behalf of an unrelated company that has made
2 a sale to a final consumer.

3 4. "Zone location" means a single parcel or contiguous parcels of
4 owned or leased land, the structures and personal property contained on the
5 land or any part of the structures occupied by a taxpayer.

6 Sec. 10. Section 43-1077, Arizona Revised Statutes, is amended to
7 read:

8 43-1077. Credit for employment by qualified defense contractor

9 A. A credit is allowed against the taxes imposed by this title for:

10 1. Net increases in employment under United States department of
11 defense contracts during the taxable year, as computed under subsection D of
12 this section, by a qualified defense contractor who is certified by the
13 department of commerce under section 41-1508.

14 2. Net increases in private commercial employment during the taxable
15 year, as computed under subsection E of this section, by a qualified defense
16 contractor who is certified by the department of commerce under section
17 41-1508 due to full-time equivalent employee positions transferred during the
18 taxable year by the taxpayer from exclusively defense related activities to
19 employment by the taxpayer in exclusively private commercial activities.

20 B. The amount of the credit is a dollar amount allowed for each
21 full-time equivalent employee position created, determined as follows:

22 1st year	\$2,500
23 2nd year	\$2,000
24 3rd year	\$1,500
25 4th year	\$1,000
26 5th year	\$ 500

27 C. If the allowable tax credit exceeds the taxes otherwise due under
28 this title on the claimant's income, or if there are no taxes due under this
29 title, the taxpayer may carry the amount of the claim not used to offset the
30 taxes under this title forward until taxable years beginning from and after
31 December 31, 2011 as a credit against subsequent years' income tax liability,
32 regardless of continuing certification as a qualified defense contractor.

33 D. The net increase in employment under defense related contracts
34 shall be determined as follows:

35 1. Establish an employment baseline for the taxpayer based on a
36 multiyear forecast of employment on United States department of defense
37 contracts that was submitted to the department of defense before June 1,
38 1992. The annual average employment forecast for the first year the taxpayer
39 qualified is the baseline. If the taxpayer did not make such a forecast
40 before June 1, 1992, the baseline is the average annual employment as
41 reported to the department of economic security during the preceding taxable
42 year. If a taxpayer qualifies in the same year it relocates into this state,
43 the taxpayer's baseline is zero.

1 who are primarily engaged in providing aviation or aerospace services or in
2 manufacturing, assembling or fabricating aviation or aerospace products. The
3 amount of the credit is a dollar amount allowed for each new employee,
4 determined as follows:

5 1. With respect to each employee other than a dislocated military base
6 employee:

7 1st year of employment	\$ 500
8 2nd year of employment	\$1,000
9 3rd year of employment	\$1,500
10 4th year of employment	\$2,000
11 5th year of employment	\$2,500

12 2. With respect to each dislocated military base employee:

13 1st year of employment	\$1,000
14 2nd year of employment	\$1,500
15 3rd year of employment	\$2,000
16 4th year of employment	\$2,500
17 5th year of employment	\$3,000

18 B. If the allowable tax credit exceeds the taxes otherwise due under
19 this title on the claimant's income, or if there are no taxes due under this
20 title, the amount of the claim not used to offset the taxes under this title
21 may be carried forward as a credit against subsequent years' income tax
22 liability for the period, not to exceed five taxable years, if the business
23 remains in the military reuse zone.

24 C. The net increase in the number of employees for purposes of this
25 section shall be determined by comparing the taxpayer's average employment in
26 the military reuse zone during the taxable year with the taxpayer's previous
27 year's fourth quarter employment in the zone, based on the taxpayer's report
28 to the department of economic security for unemployment insurance purposes
29 but considering only employment in the zone.

30 D. Co-owners of a business, including partners in a partnership and
31 shareholders of an S corporation, as defined in section 1361 of the internal
32 revenue code, may each claim only the pro rata share of the credit allowed
33 under this section based on the ownership interest. The total of the credits
34 allowed all such owners may not exceed the amount that would have been
35 allowed for a sole owner of the business.

36 E. A credit is not allowed under this section with respect to an
37 employee whose place of employment is relocated by the taxpayer from a
38 location in this state to the military reuse zone, unless the employee is
39 engaged in aviation or aerospace services or in manufacturing, assembling or
40 fabricating aviation or aerospace products and the taxpayer maintains at
41 least the same number of employees in this state but outside the zone.

42 F. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1077 OR
43 43-1083.01 may not claim a credit under this section with respect to the same
44 employees.

1 G. For the purposes of this section, "dislocated military base
2 employee" means a civilian who previously had permanent full-time civilian
3 employment on the military facility as of the date the closure of the
4 facility was finally determined under federal law, as certified by the
5 department of commerce.

6 Sec. 12. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
7 amended by adding section 43-1083.01, to read:

8 43-1083.01. Credit for renewable energy industry

9 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009
10 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
11 THIS TITLE FOR QUALIFIED INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING
12 QUALIFIED RENEWABLE ENERGY OPERATIONS IN THIS STATE. TO QUALIFY FOR THE
13 CREDIT, THE TAXPAYER MUST INVEST IN RENEWABLE ENERGY MANUFACTURING, OR IN NEW
14 REGIONAL, NATIONAL OR GLOBAL RENEWABLE ENERGY BUSINESS HEADQUARTERS, IN THIS
15 STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE
16 PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT. THE TAXPAYER MUST
17 MEET THE EMPLOYEE COMPENSATION AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS
18 PRESCRIBED BY SECTION 41-1511.

19 B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

20 1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS
21 MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

22 (a) FOR QUALIFYING RENEWABLE ENERGY MANUFACTURING OPERATIONS, AT LEAST
23 ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE HUNDRED
24 THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

25 (b) FOR QUALIFYING RENEWABLE ENERGY BUSINESS HEADQUARTERS, AT LEAST
26 ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND DOLLAR
27 INCREMENT OF CAPITAL INVESTMENT.

28 2. FOR OTHER QUALIFYING RENEWABLE ENERGY INVESTMENT, TEN PER CENT OF
29 THE AMOUNT COMPUTED AS FOLLOWS:

30 (a) FIVE HUNDRED THOUSAND DOLLARS FOR EACH ONE AND ONE-HALF NEW
31 FULL-TIME EMPLOYMENT POSITIONS IN NEW RENEWABLE ENERGY MANUFACTURING
32 OPERATIONS.

33 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT
34 POSITION AT A NEW RENEWABLE ENERGY BUSINESS HEADQUARTERS.

35 (c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER
36 CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.

37 3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS
38 SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE
39 EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

40 C. CREDITS ARE ALLOWED IN EACH TAXABLE YEAR UNDER THIS SECTION AND
41 SECTION 43-1164.01 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT SHALL
42 NOT ALLOW TAX CREDITS UNDER THIS SECTION AND SECTION 43-1164.01 THAT EXCEED
43 IN THE AGGREGATE A TOTAL OF SEVENTY MILLION DOLLARS IN ANY FISCAL YEAR,
44 EXCEPT THAT IF LESS THAN THE MAXIMUM DOLLAR AMOUNT IS CLAIMED IN ANY FISCAL
45 YEAR, THE UNUSED CREDIT AMOUNT MAY BE CARRIED OVER TO THE FOLLOWING YEAR.

- 1 D. TO CLAIM THE CREDIT THE TAXPAYER MUST:
2 1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1511.
3 2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION
4 ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.
- 5 E. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE
6 BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS
7 DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT
8 LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS
9 HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A
10 NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF
11 THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT
12 HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE
13 CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH
14 THE REQUIREMENTS OF SECTION 41-1511 AND CERTIFICATION BY THE DEPARTMENT OF
15 COMMERCE.
- 16 F. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
17 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL
18 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
19 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
20 ALLOWED ALL SUCH OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD
21 HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.
- 22 G. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
23 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
24 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN
25 OFFSET AGAINST INCOME TAXES IS NOT REFUNDABLE, BUT MAY BE CARRIED FORWARD AS
26 A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT
27 TO EXCEED:
- 28 1. TEN TAXABLE YEARS, SUBJECT TO CONTINUING CERTIFICATION UNDER
29 SECTION 41-1511, FOR ANY AMOUNT OF THE CREDIT THAT IS NOT TRANSFERRED UNDER
30 SUBSECTION H OF THIS SECTION.
- 31 2. FIVE TAXABLE YEARS, SUBJECT TO CONTINUING CERTIFICATION UNDER
32 SECTION 41-1511, FOR ANY AMOUNT OF THE CREDIT THAT IS TRANSFERRED UNDER
33 SUBSECTION H OF THIS SECTION.
- 34 H. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
35 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN
36 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:
- 37 1. THE TRANSFEROR TAXPAYER MUST MAKE THE ELECTION TO TRANSFER THE
38 CREDIT IN THE FIRST TAXABLE YEAR THE TAXPAYER QUALIFIES FOR THE CREDIT UNDER
39 THIS SECTION. THE CREDIT IS NOT TRANSFERRABLE IN ANY SUBSEQUENT TAXABLE
40 YEAR.
- 41 2. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
42 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
43 CONDITIONS OF THIS SUBSECTION.

1 3. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
2 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE
3 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE:

4 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

5 (b) THE DATE OF THE TRANSFER.

6 (c) THE AMOUNT OF THE TRANSFER.

7 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
8 REMAINING BALANCE AFTER THE TRANSFER.

9 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

10 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

11 4. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
12 THE CREDIT CAN BE USED. THE TRANSFEREE MUST TAKE THE CREDIT IN FIVE EQUAL
13 ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS AS DESCRIBED IN
14 SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

15 5. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED
16 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN
17 AUDIT OF THE REQUIREMENTS PRESCRIBED BY SECTION 41-1511 AND BY THIS SECTION
18 TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER
19 INTO THE AUDIT MUST BE MADE AFTER THE TAXPAYER IS PREAPPROVED PURSUANT TO
20 SECTION 41-1511, SUBSECTION I. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S
21 AUTHORIZED REPRESENTATIVE, AS DEFINED BY SECTION 42-2301, WHO IS AN
22 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
23 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
24 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY
25 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS
26 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303
27 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE
28 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT
29 SHALL ISSUE A NOTICE OF DETERMINATION, INCLUDING A WRITTEN CERTIFICATE TO THE
30 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE
31 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF
32 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR
33 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT
34 PREVENTED AN ACCURATE AUDIT.

35 I. EXCEPT AS PROVIDED BY SUBSECTION J OF THIS SECTION, IF, WITHIN TEN
36 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE
37 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER
38 SECTION 41-1511, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS AS
39 DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY
40 DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND
41 THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS
42 SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. IF THE CREDIT
43 HAS BEEN TRANSFERRED PURSUANT TO SUBSECTION H OF THIS SECTION, ANY RECAPTURE
44 PURSUANT TO THIS SUBSECTION IS FROM THE ORIGINAL TAXPAYER. THIS SUBSECTION
45 APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION

1 OF QUALIFICATION UNDER SECTION 41-1511. THIS SUBSECTION DOES NOT APPLY IF,
2 IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS TO
3 CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED BY
4 INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF
5 TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY
6 ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST EQUAL TO THE PRIME
7 RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS DETERMINED FOR
8 PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
9 SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER CENT.

10 J. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074, 43-1077 OR
11 43-1079 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
12 FULL-TIME EMPLOYMENT POSITIONS.

13 K. THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND PRESCRIBE FORMS AND
14 PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT OF
15 REVENUE AND THE DEPARTMENT OF COMMERCE SHALL COLLABORATE IN ADOPTING RULES AS
16 NECESSARY TO AVOID DUPLICATION AND CONTRADICTORY REQUIREMENTS WHILE
17 ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

18 L. FOR THE PURPOSES OF THIS SECTION, RENEWABLE ENERGY OPERATIONS ARE
19 LIMITED TO MANUFACTURERS OF, AND HEADQUARTERS FOR, SYSTEMS AND COMPONENTS
20 THAT ARE USED OR USEFUL IN MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE
21 GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR
22 DISTRIBUTION OF ELECTRICITY FROM RENEWABLE RESOURCES.

23 Sec. 13. Section 43-1161, Arizona Revised Statutes, is amended to
24 read:

25 43-1161. Credit for increased employment in enterprise zones:
26 definitions

27 A. A credit is allowed against the taxes imposed by this title for net
28 increases in qualified employment positions of residents of this state by a
29 business located in an enterprise zone established under title 41, chapter
30 10, article 2, except employment positions at a zone location where more than
31 ten per cent of the business conducted at the location consists of retail
32 sales of tangible personal property, measured by either the number of
33 employees assigned to retail sales or the square footage of the facility used
34 for retail sales activities at the location in the zone. Retail sales and
35 retail sales activities do not include:

36 1. Food and beverage for consumption on the premises solely by
37 employees and occasional guests of employees at the location.

38 2. Promotional products not available for sale and displaying the
39 company logo or trademark.

40 3. Products sold to company employees.

41 B. Subject to subsection E of this section, the amount of the credit
42 is equal to:

43 1. One-fourth of the taxable wages paid to an employee in a qualified
44 employment position, not to exceed five hundred dollars, in the first year or
45 partial year of employment.

1 2. One-third of the taxable wages paid to an employee in a qualified
2 employment position, not to exceed one thousand dollars per qualified
3 employment position, in the second year of continuous employment.

4 3. One-half of the taxable wages paid to an employee in a qualified
5 employment position, not to exceed one thousand five hundred dollars per
6 qualified employment position, in the third year of continuous employment.

7 C. To qualify for a credit under this section:

8 1. All of the employees with respect to whom a credit is claimed must
9 reside in this state.

10 2. Thirty-five per cent of the employees with respect to whom a credit
11 is claimed for the first year of employment must reside on the date of hire
12 in an enterprise zone that is located in the same county in which the
13 business is located. If an employee for whom a credit was allowed in the
14 first year of employment leaves employment during the second or third year,
15 the taxpayer may substitute another employee who meets the requirements of
16 paragraph 3 of this subsection and who was hired during the same year as the
17 original employee. If the original employee was counted toward the residency
18 requirement under this paragraph, the substitute employee must also have
19 resided in a zone at the time the substitute was hired.

20 3. A qualified employment position must meet all of the following
21 requirements:

22 (a) The position must be a minimum of one thousand seven hundred fifty
23 hours per year of full-time and permanent employment.

24 (b) The job duties must be performed primarily at the zone locations
25 of the business. If an eligible employee in a qualified employment position
26 is transferred or assigned to work in the taxpayer's workplace at a different
27 location that is also located in an enterprise zone and qualifies as a zone
28 location, it may be considered to be continuous employment if it continues to
29 meet all qualified employment position requirements.

30 (c) The employment must include health insurance coverage for the
31 employee for which the employer pays at least fifty per cent of the premium
32 or membership cost. If the taxpayer is self-insured, the taxpayer must pay
33 at least fifty per cent of a predetermined fixed cost per employee for an
34 insurance program that is payable whether or not the employee has filed
35 claims.

36 (d) The employer must pay compensation at least equal to the wage
37 offer by county as computed annually by the department of economic security
38 research administration division.

39 (e) The employee must have been employed for at least ninety days
40 during the first taxable year. An employee who is hired during the last
41 ninety days of the taxable year shall be considered a new employee during the
42 next taxable year. A qualified employment position that is filled during the
43 last ninety days of the taxable year is considered to be a new qualified
44 employment position for the next taxable year.

1 (f) The employee must not have been previously employed by the
2 taxpayer within twelve months before the current date of hire.

3 D. A credit is allowed for employment in the second and third year
4 only for qualified employment positions for which a credit was allowed and
5 claimed by the taxpayer on the original first and second year tax returns.
6 For the purposes of this subsection, the requirement to claim the credit on
7 the original tax return does not apply to qualified employment positions
8 created before January 1, 2002 and ~~were~~ certified to the department of
9 commerce.

10 E. The net increase in the number of qualified employment positions is
11 the lesser of the total number of filled qualified employment positions
12 created in the zone during the tax year or the difference between the average
13 number of full-time employees in the zone in the current tax year and the
14 average number of full-time employees during the immediately preceding
15 taxable year. The net increase in the number of qualified employment
16 positions computed under this subsection may not exceed two hundred qualified
17 employment positions per taxpayer each year.

18 F. A taxpayer who claims a credit under section [43-1164.01](#), 43-1165 or
19 43-1167 may not claim a credit under this section with respect to the same
20 ~~employees~~ EMPLOYMENT POSITIONS.

21 G. If the allowable tax credit exceeds the income taxes otherwise due
22 on the claimant's income, or if there are no state income taxes due on the
23 claimant's income, the amount of the claim not used as an offset against
24 income taxes may be carried forward as a tax credit against subsequent years'
25 income tax liability for the period, not to exceed five taxable years,
26 provided the business remains in an enterprise zone.

27 H. Co-owners of a business, including partners in a partnership, may
28 each claim only the pro rata share of the credit allowed under this section
29 based on the ownership interest. The total of the credits allowed all such
30 owners of the business may not exceed the amount that would have been allowed
31 for a sole owner of the business.

32 I. If a person purchases a business in a zone or changes ownership
33 through reorganization, stock purchase or merger, the new taxpayer may claim
34 first year credits only for one or more qualified employment positions that
35 it created and filled with an eligible employee after the purchase or
36 reorganization was complete. If a person purchases a taxpayer that had
37 qualified for first or second year credits or changes ownership through
38 reorganization, stock purchase or merger, the new taxpayer may claim the
39 second or third year credits if it meets other eligibility requirements of
40 this section. Credits for which a taxpayer qualified before the changes
41 described in this subsection are terminated and lost at the time the changes
42 are implemented.

43 J. A failure to timely report and certify to the department of
44 commerce and the department of revenue the information prescribed by section
45 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by

1 section 41-1525, subsection C, ~~disqualifies~~ the taxpayer from the credit
2 under this section. The department of revenue shall require written evidence
3 of the timely report to the department of commerce.

4 K. The termination of an enterprise zone does not affect the credit
5 under this section with respect to:

6 1. Taxpayers that have employees in the second and third years of
7 employment in qualified employment positions under subsections A, B and C of
8 this section if the business remains in the location that was in the
9 enterprise zone.

10 2. Amounts carried forward into subsequent taxable years under
11 subsection G of this section.

12 L. The department may adopt rules necessary for the administration of
13 this section.

14 M. For the purposes of this section:

15 1. "Assigned to retail" means working more than twenty-five per cent
16 of an employee's time in one or more retail sales activities.

17 2. "Retail sales" means the sale of tangible personal property to an
18 ultimate consumer.

19 3. "Retail sales activities" means all activities persons operating a
20 retail business normally engage in, including taking orders, filling orders,
21 billing orders, receiving and processing payment and shipping, stocking and
22 delivering tangible personal property to the ultimate consumer, except drop
23 shipments by a company acting on behalf of an unrelated company that has made
24 a sale to a final consumer.

25 4. "Zone location" means a single parcel or contiguous parcels of
26 owned or leased land, the structures and personal property contained on the
27 land or any part of the structures occupied by a taxpayer.

28 Sec. 14. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
29 amended by adding section 43-1164.01, to read:

30 43-1164.01. Credit for renewable energy industry

31 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009
32 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
33 THIS TITLE FOR QUALIFIED INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING
34 QUALIFIED RENEWABLE ENERGY OPERATIONS IN THIS STATE. TO QUALIFY FOR THE
35 CREDIT, THE TAXPAYER MUST INVEST IN RENEWABLE ENERGY MANUFACTURING, OR IN NEW
36 REGIONAL, NATIONAL OR GLOBAL RENEWABLE ENERGY BUSINESS HEADQUARTERS, IN THIS
37 STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE
38 PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT. THE TAXPAYER MUST
39 MEET THE EMPLOYEE COMPENSATION AND EMPLOYEE HEALTH BENEFIT REQUIREMENTS
40 PRESCRIBED BY SECTION 41-1511.

41 B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

42 1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS
43 MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

1 (a) FOR QUALIFYING RENEWABLE ENERGY MANUFACTURING OPERATIONS, AT LEAST
2 ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE HUNDRED
3 THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.

4 (b) FOR QUALIFYING RENEWABLE ENERGY BUSINESS HEADQUARTERS, AT LEAST
5 ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND DOLLAR
6 INCREMENT OF CAPITAL INVESTMENT.

7 2. FOR OTHER QUALIFYING RENEWABLE ENERGY INVESTMENT, TEN PER CENT OF
8 THE AMOUNT COMPUTED AS FOLLOWS:

9 (a) FIVE HUNDRED THOUSAND DOLLARS FOR EACH ONE AND ONE-HALF NEW
10 FULL-TIME EMPLOYMENT POSITIONS IN NEW RENEWABLE ENERGY MANUFACTURING
11 OPERATIONS.

12 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT
13 POSITION AT A NEW RENEWABLE ENERGY BUSINESS HEADQUARTERS.

14 (c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER
15 CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.

16 3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS
17 SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE
18 EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

19 C. CREDITS ARE ALLOWED IN EACH TAXABLE YEAR UNDER THIS SECTION AND
20 SECTION 43-1083.01 ON A FIRST COME, FIRST SERVED BASIS. THE DEPARTMENT SHALL
21 NOT ALLOW TAX CREDITS UNDER THIS SECTION AND SECTION 43-1083.01 THAT EXCEED
22 IN THE AGGREGATE A TOTAL OF SEVENTY MILLION DOLLARS IN ANY FISCAL YEAR,
23 EXCEPT THAT IF LESS THAN THE MAXIMUM DOLLAR AMOUNT IS CLAIMED IN ANY FISCAL
24 YEAR, THE UNUSED CREDIT AMOUNT MAY BE CARRIED OVER TO THE FOLLOWING YEAR.

25 D. TO CLAIM THE CREDIT THE TAXPAYER MUST:

26 1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1511.

27 2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION
28 ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.

29 E. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE
30 BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS
31 DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT
32 LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS
33 HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A
34 NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF
35 THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT
36 HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE
37 CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH
38 THE REQUIREMENTS OF SECTION 41-1511 AND CERTIFICATION BY THE DEPARTMENT OF
39 COMMERCE.

40 F. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MAY
41 EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION
42 BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH
43 OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED
44 FOR A SOLE OWNER OF THE BUSINESS.

1 G. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME
2 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME
3 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN
4 OFFSET AGAINST INCOME TAXES IS NOT REFUNDABLE, BUT MAY BE CARRIED FORWARD AS
5 A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT
6 TO EXCEED:

7 1. TEN TAXABLE YEARS, SUBJECT TO CONTINUING CERTIFICATION UNDER
8 SECTION 41-1511, FOR ANY AMOUNT OF THE CREDIT THAT IS NOT TRANSFERRED UNDER
9 SUBSECTION H OF THIS SECTION.

10 2. FIVE TAXABLE YEARS, SUBJECT TO CONTINUING CERTIFICATION UNDER
11 SECTION 41-1511, FOR ANY AMOUNT OF THE CREDIT THAT IS TRANSFERRED UNDER
12 SUBSECTION H OF THIS SECTION.

13 H. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
14 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN
15 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:

16 1. THE TRANSFEROR TAXPAYER MUST MAKE THE ELECTION TO TRANSFER THE
17 CREDIT IN THE FIRST TAXABLE YEAR THE TAXPAYER QUALIFIES FOR THE CREDIT UNDER
18 THIS SECTION. THE CREDIT IS NOT TRANSFERRABLE IN ANY SUBSEQUENT TAXABLE
19 YEAR.

20 2. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
21 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
22 CONDITIONS OF THIS SUBSECTION.

23 3. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
24 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE
25 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE:

26 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

27 (b) THE DATE OF THE TRANSFER.

28 (c) THE AMOUNT OF THE TRANSFER.

29 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
30 REMAINING BALANCE AFTER THE TRANSFER.

31 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

32 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

33 4. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
34 THE CREDIT CAN BE USED. THE TRANSFEREE MUST TAKE THE CREDIT IN FIVE EQUAL
35 ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS AS DESCRIBED IN
36 SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

37 5. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED
38 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN
39 AUDIT OF THE REQUIREMENTS PRESCRIBED BY SECTION 41-1511 AND BY THIS SECTION
40 TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER
41 INTO THE AUDIT MUST BE MADE AFTER THE TAXPAYER IS PREAPPROVED PURSUANT TO
42 SECTION 41-1511, SUBSECTION I. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S
43 AUTHORIZED REPRESENTATIVE, AS DEFINED BY SECTION 42-2301, WHO IS AN
44 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
45 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS

1 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY
2 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS
3 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303
4 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE
5 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT
6 SHALL ISSUE A NOTICE OF DETERMINATION, INCLUDING A WRITTEN CERTIFICATE TO THE
7 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE
8 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF
9 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR
10 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT
11 PREVENTED AN ACCURATE AUDIT.

12 I. EXCEPT AS PROVIDED BY SUBSECTION J OF THIS SECTION, IF, WITHIN TEN
13 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE
14 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER
15 SECTION 41-1511, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS AS
16 DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY
17 DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND
18 THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS
19 SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. IF THE CREDIT
20 HAS BEEN TRANSFERRED PURSUANT TO SUBSECTION H OF THIS SECTION, ANY RECAPTURE
21 PURSUANT TO THIS SUBSECTION IS FROM THE ORIGINAL TAXPAYER. THIS SUBSECTION
22 APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION
23 OF QUALIFICATION UNDER SECTION 41-1511. THIS SUBSECTION DOES NOT APPLY IF,
24 IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS TO
25 CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED BY
26 INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF
27 TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY
28 ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST EQUAL TO THE PRIME
29 RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS DETERMINED FOR
30 PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
31 SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER CENT.

32 J. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1161, 43-1165 OR
33 43-1167 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME
34 FULL-TIME EMPLOYMENT POSITIONS.

35 K. THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND PRESCRIBE FORMS AND
36 PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT OF
37 REVENUE AND THE DEPARTMENT OF COMMERCE SHALL COLLABORATE IN ADOPTING RULES AS
38 NECESSARY TO AVOID DUPLICATION AND CONTRADICTORY REQUIREMENTS WHILE
39 ACCOMPLISHING THE INTENT AND PURPOSES OF THIS SECTION.

40 L. FOR THE PURPOSES OF THIS SECTION, RENEWABLE ENERGY OPERATIONS ARE
41 LIMITED TO MANUFACTURERS OF, AND HEADQUARTERS FOR, SYSTEMS AND COMPONENTS
42 THAT ARE USED OR USEFUL IN MANUFACTURING RENEWABLE ENERGY EQUIPMENT FOR THE
43 GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, TRANSMISSION OR
44 DISTRIBUTION OF ELECTRICITY FROM RENEWABLE RESOURCES.

1 Sec. 15. Section 43-1165, Arizona Revised Statutes, is amended to
2 read:

3 43-1165. Credit for employment by qualified defense contractor

4 A. A credit is allowed against the taxes imposed by this title for:

5 1. Net increases in employment under United States department of
6 defense contracts during the taxable year, as computed under subsection D of
7 this section, by a qualified defense contractor that is certified by the
8 department of commerce under section 41-1508.

9 2. Net increases in private commercial employment during the taxable
10 year, as computed under subsection E of this section, by a qualified defense
11 contractor that is certified by the department of commerce under section
12 41-1508 due to full-time equivalent employee positions transferred during the
13 taxable year by the taxpayer from exclusively defense related activities to
14 employment by the taxpayer in exclusively private commercial activities.

15 B. The amount of the credit is a dollar amount allowed for each
16 full-time equivalent employee position created, determined as follows:

17 1st year	\$2,500
18 2nd year	\$2,000
19 3rd year	\$1,500
20 4th year	\$1,000
21 5th year	\$ 500

22 C. If the allowable tax credit exceeds the taxes otherwise due under
23 this title on the claimant's income, or if there are no taxes due under this
24 title, the taxpayer may carry the amount of the claim not used to offset the
25 taxes under this title forward until taxable years beginning from and after
26 December 31, 2011 as a credit against subsequent years' income tax liability,
27 regardless of continuing certification as a qualified defense contractor.

28 D. The net increase in employment under defense related contracts
29 shall be determined as follows:

30 1. Establish an employment baseline for the taxpayer based on a
31 multiyear forecast of employment on United States department of defense
32 contracts that was submitted to the department of defense before June 1,
33 1992. The annual average employment forecast for the first year the taxpayer
34 qualified is the baseline. If the taxpayer did not make such a forecast
35 before June 1, 1992, the baseline is the average annual employment as
36 reported to the department of economic security during the preceding taxable
37 year. If a taxpayer qualifies in the same year it relocates into this state,
38 the taxpayer's baseline is zero.

39 2. For the first year of the credit, the taxpayer's net increase in
40 average employment is the increase in employment reported to the department
41 of economic security for the taxable year over the employment baseline.

42 3. For each succeeding year of the credit, the taxpayer's net increase
43 in average employment is the increase in employment reported to the
44 department of economic security for the taxable year over the preceding
45 taxable year's average employment.

1 E. In computing the amount of credit allowed under subsection A,
2 paragraph 2 of this section, the taxpayer shall:

3 1. Prorate employment during the taxable year according to the date of
4 transfer from defense to private commercial activities or the date of
5 transfer from private commercial activities to defense.

6 2. Compute and subtract an amount pursuant to subsection B of this
7 section for full-time equivalent employee positions that were transferred
8 during the taxable year by the taxpayer from exclusively private commercial
9 activities to exclusively defense related activities.

10 F. The taxpayer shall account for qualifying full-time equivalent
11 employee positions on a first-in first-out basis. If a decrease in
12 qualifying employment occurs, the taxpayer shall subtract the decrease from
13 the earliest qualifying positions.

14 G. A credit is not allowed under both subsection A, paragraphs 1 and 2
15 of this section with respect to the same employee position. A full-time
16 equivalent employee position may be considered for purposes of computing the
17 credit under either subsection A, paragraph 1 or 2 of this section, but not
18 both.

19 H. A credit is not allowed under this section with respect to
20 employment that was transferred from an outside contractor in this state to
21 in-house employment by the taxpayer solely for purposes of qualifying for the
22 credit.

23 I. A taxpayer that claims a credit under section 43-1161, [43-1164.01](#)
24 or 43-1167 may not claim a credit under this section with respect to the same
25 ~~employees~~ EMPLOYEE POSITIONS.

26 J. Co-owners of a business, including corporate partners in a
27 partnership, may each claim only the pro rata share of the credit allowed
28 under this section based on the ownership interest. The total of the credits
29 allowed all such owners may not exceed the amount that would have been
30 allowed for a sole owner of the business.

31 Sec. 16. Section 43-1167, Arizona Revised Statutes, is amended to
32 read:

33 [43-1167. Credit for increased employment in military reuse](#)
34 [zones; definition](#)

35 A. A credit is allowed against the taxes imposed by this title for net
36 increases in employment by the taxpayer of full-time employees working in a
37 military reuse zone, established under title 41, chapter 10, article 3, and
38 who are primarily engaged in providing aviation or aerospace services or in
39 manufacturing, assembling or fabricating aviation or aerospace products. The
40 amount of the credit is a dollar amount allowed for each new employee,
41 determined as follows:

42 1. With respect to each employee other than a dislocated military base
43 employee:

44 1st year of employment	\$ 500
45 2nd year of employment	\$1,000

1	3rd year of employment	\$1,500
2	4th year of employment	\$2,000
3	5th year of employment	\$2,500
4	2. With respect to each dislocated military base employee:	
5	1st year of employment	\$1,000
6	2nd year of employment	\$1,500
7	3rd year of employment	\$2,000
8	4th year of employment	\$2,500
9	5th year of employment	\$3,000

10 B. If the allowable tax credit exceeds the taxes otherwise due under
11 this title on the claimant's income, or if there are no taxes due under this
12 title, the amount of the claim not used to offset the taxes under this title
13 may be carried forward as a credit against subsequent years' income tax
14 liability for the period, not to exceed five taxable years, if the business
15 remains in the military reuse zone.

16 C. The net increase in the number of employees for purposes of this
17 section shall be determined by comparing the taxpayer's average employment in
18 the military reuse zone during the taxable year with the taxpayer's previous
19 year's fourth quarter employment in the zone, based on the taxpayer's report
20 to the department of economic security for unemployment insurance purposes
21 but considering only employment in the zone.

22 D. Co-owners of a business, including corporate partners in a
23 partnership, may each claim only the pro rata share of the credit allowed
24 under this section based on the ownership interest. The total of the credits
25 allowed all such owners may not exceed the amount that would have been
26 allowed for a sole owner of the business.

27 E. A credit is not allowed under this section with respect to an
28 employee whose place of employment is relocated by the taxpayer from a
29 location in this state to the military reuse zone unless the employee is
30 engaged in aviation or aerospace services or in manufacturing, assembling or
31 fabricating aviation or aerospace products and the taxpayer maintains at
32 least the same number of employees in this state but outside the zone.

33 F. A taxpayer who claims a credit under section 43-1161, [43-1164.01](#) or
34 [43-1165](#) may not claim a credit under this section with respect to the same
35 employees.

36 G. For the purposes of this section, "dislocated military base
37 employee" means a civilian who previously had permanent full-time civilian
38 employment on the military facility as of the date the closure of the
39 facility was finally determined under federal law, as certified by the
40 department of commerce.

41 Sec. 17. [Delayed repeal](#)

42 Sections 41-1511, 43-1083.01 and 43-1164.01, Arizona Revised Statutes,
43 as added by this act, are repealed from and after December 31, 2015.

1 Sec. 18. Emergency rules

2 The department of commerce and the department of revenue may adopt
3 emergency rules pursuant to section 41-1026, Arizona Revised Statutes, that
4 are necessary to accomplish the intent and purposes of this act.

5 Sec. 19. Purpose

6 Pursuant to section 43-223, Arizona Revised Statutes, the income tax
7 credits enacted in sections 43-1083.01 and 43-1164.01, Arizona Revised
8 Statutes, as added by this act, are intended to encourage business investment
9 that will produce high quality employment opportunities for citizens of this
10 state and enhance the position of this state as a center for production and
11 use of renewable energy products.